

**IN THE UNITED STATES BANKRUPTCY COURT FOR THE
DISTRICT OF DELAWARE**

In re:

BIG LOTS, INC., et al.,

Debtors.

Chapter 11

Case No. 24-11967 (JKS)

(Jointly Administered)

**Obj. Deadline: November 6, 2024 at 4:00 p.m. (ET)
Hearing Date: November 12, 2024 at 1:30 p.m. (ET)**

Related Docs: 511, 612, 661 & 683

**OBJECTION OF IBM CREDIT LLC TO DEBTORS'
PROPOSED CURE AMOUNT**

IBM Credit LLC (“IBM”), by and through its undersigned counsel, hereby files this objection (“Cure Objection”) to the blank cure amounts for the contracts between Big Lots Stores, LLC and IBM identified in the Assumption Schedules (as defined below). IBM does not object to the Debtors’ assumption and assignment of the subject contracts, but files this Cure Objection in light of the Assumption Schedules’ failure to list any cure amount for the assumed IBM contracts when in fact amounts are due under the Contracts (as defined below). In support of its Cure Objection, IBM submits as follows:

BACKGROUND

1. Prior to the Petition Date, IBM and debtor Big Lots Stores, LLC entered into (i) a certain Installment Payment Plan, dated March 24, 2022 and (ii) a certain Installment Payment Plan dated October 26, 2023 (collectively, the “Contracts”), pursuant to which IBM provided financing to purchase the goods and services identified therein pursuant to the terms of the Contracts.

2. On September 9, 2024 (the “Petition Date”), the above-captioned debtors (the “Debtors”) filed voluntary petitions for relief under chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the District of Delaware (this “Court”).

3. On September 9, 2024, the Debtors filed their *Motion of Debtors for Entry of Orders (I) (A) Approving Bidding Procedures for Sale of Debtors’ Assets, (B) Approving the Stalking Horse Bid Protections, (C) Scheduling Auction for, and Hearing To Approve, Sale of Debtors’ Assets, (D) Approving Form and Manner of Notices of Sale, Auction, and Sale Hearing, and (E) Approving Assumption and Assignment Procedures, (II) (A) Approving Sale of Debtors’ Assets Free and Clear of Liens, Claims, Interests, and Encumbrances and (B) Authorizing Assumption and Assignment of Executory Contracts and Unexpired Leases, and (III) Granting Related Relief* [Docket No. 18] (the “Bid Procedures Motion”).

4. As contemplated by the Bid Procedures Order, on October 16, 2024, the Debtors filed the *First Notice of Potential Assumption and Assignment of Executory Contracts or Unexpired Leases and Cure Amounts* [Docket No. 511] (“First Assignment Notice”), which identifies certain executory contracts that the Debtors may assume and assign in connection with the proposed sale, including the Contracts. The First Assignment Notice leaves blank the proposed cure amount associated with the Contracts. *See First Assignment Notice at p. 40.*

5. On October 30, 2024, the Debtors filed their *Notice of Successful Bidder for the Sale of the Debtors’ Assets* [Docket No. 661] (the “Successful Bidder Notice”). The Successful Bidder Notice identifies Gateway BL Acquisition, LLC as the Successful Bidder.

6. On October 31, 2024, the Debtors filed the *Second Notice of Potential Assumption and Assignment of Executory Contracts or Unexpired Leases and Cure Amounts* [Docket No. 683] (“Second Assignment Notice” and, together with the First Assignment Notice, the “Assignment

Notices”), identifying the executory contracts and unexpired leases that the Debtors intend to assume and assign to the Successful Bidder, including the Contracts. The Second Assignment Notice leaves blank the proposed cure amount associated with the Contracts. *See* Second Assignment Notice at pp. 51-52.

7. As noted *supra*, the Assumption Schedules list the Contracts between IBM and debtor Big Lots Stores, LLC that Debtors intend to assume but leave blank the proposed cure amount associated with the Contracts. IBM files Cure Objection to make clear what amounts are due and owing under the Contracts. .

CURE OBJECTION

8. IBM objects to the blank cure amounts set forth in the Assumption Schedules in connection with Debtors’ proposed assumption of the Contracts.

9. To the extent that the Debtors seek to assume and assign the Contracts, the Debtors or Successful Bidder must pay the full cure amounts based upon the actual amounts that are due on the date that the Contracts are assumed. *See* 11 U.S.C. § 365(b)(1). In the event the Debtors wish to assume and assign the Contracts, the cure amounts must be based on the amounts due on the effective date of any such assignment (the “Effective Date”). *Id.*

10. The total cure amount due under the Contracts as of the date hereof is no less than \$183,416.58.

11. Any order permitting the assumption and assignment of the Contracts must direct that the Debtors fully pay all amounts due to IBM under the Contracts as of the Effective Date, as a condition precedent to such assumption and assignment.

WHEREFORE, IBM respectfully requests that this Court enter an order that: (i) approves assumption and assignment of the Contracts only to the extent consistent with the foregoing; and (ii) grants such further relief to IBM as this Court deems just and equitable.

Respectfully submitted,

Dated: November 6, 2024
Wilmington, Delaware

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